



## CITY OF PHILADELPHIA

**LAW DEPARTMENT**  
ONE PARKWAY BUILDING  
1515 ARCH STREET  
PHILADELPHIA, PA 19102

**Marcel S. Pratt**  
**City Solicitor**

Roberto A. Fernandez  
Assistant City Solicitor  
(215) 683-5227  
(215) 683-5069 (fax)  
roberto.fernandez@phila.gov

February 21, 2019

### **VIA ELECTRONIC MAIL**

Muira McCammon  
Dept MR 67399  
411A Highland Ave  
Somerville, MA 02144-2516  
67399-50112584@requests.muckrock.com

**Re: McCammon #3503**

Dear Ms. McCammon:

Thank you for writing to the City of Philadelphia (the “City”) with your request for information pursuant to the Pennsylvania Right-To-Know Law, 65 P.S. § 67.101 *et seq.*, (the “Act” or “RTKL”).

On January 14, 2019, the City received your request for:

**“Copies of all reports, lists, databases, or individual documents created since Jan. 1, 2009 that detail lawsuits brought against the city's police department. This should include any documentation mechanism your department uses to track lawsuits. It should also include any documents that your department submits to local, state, or federal agencies listing the number and/or status of lawsuits brought against the police department. This request should be construed to include documents compiled quarterly, annually, or in other increments as well as documents or databases that contain responsive information over a longer time span.”**

On January 22, 2019, the City informed you that it would require up to an additional thirty (30) days to respond to your request. This constitutes the City’s response to your request.

Your request is *denied* as insufficiently specific. At the outset, your request for “all reports, lists, databases, or individual documents created since Jan. 1, 2009,” “any documentation mechanism,” “any documents that your department submits to local, state, or federal agencies” for time periods between approximately nine to ten years are not sufficiently specific to enable the City to determine specifically what records are being requested. The Act requires, among other things, that a written request “identify or describe the records sought with sufficient specificity to enable the agency to

ascertain which records are being requested . . . .” 65 P.S. § 67.703.<sup>1</sup> The requirement of specificity is necessary to (1) ensure that a requestor provides enough information so that “an agency can determine whether to grant or deny the request[;]” *Nanayakkara v. Casella*, 681 A.2d 857, 859-60 (Pa. Commw. 1996), and (2) “to prevent agencies from suffering undue interference and obstruction of their daily functions; . . . [which] would be unavoidable if agency officials always could be subjected to broad and unlimited requests for documents and records.” *Mooney v. Temple Univ. of the Commonwealth Sys. Of Higher Educ. Bd. Of Trustees*, 292 A.2d 395, 397 n.8 (Pa. 1972) (“requests for inspection [must] be specific and particular seeking disclosure of named documents or records rather than broad and unlimited requests for undefined bodies of documents or records”); *see also, e.g., Arduino v. Borough of Dunmore*, 720 A.2d 827, 831 (Pa. Commw. 1998) (holding that a request for “‘all records’ related to the disbursement of the funds for [certain] public projects” lacked sufficient specificity), *appeal denied*, 741 A.2d 195 (Pa. 1992); *Hunt. v. Pa. Dep’t of Corr.*, 698 A.2d 147, 149 (Pa. Commw. 1997) (holding that requests, including a request for all documents given by Department of Corrections to inmate and by inmate to Department, lacked sufficient specificity).

Pennsylvania courts have compared such broad, sweeping requests to discovery-type requests which, while potentially proper in the context of civil litigation, are improper under the Act. *Berman v. Pa. Convention Ctr. Auth.*, 901 A.2d 1085, 1089 (Pa. Commw. 2006) (holding that request for “[t]he most recent plans, construction, and design documents’ relating to” the convention center expansion was “more in the nature of a discovery request than a proper request for public records”); *Associated Builders and Contractors, Inc. v. Pa. Dep’t of Gen Servs.*, 747 A.2d 962, 965-66 (Pa. Commw. 2000) (holding that requests “akin to document requests under the civil discovery rules, *i.e.*, ‘any and all documents relating to [subject matter]’” lack sufficient specificity); *accord PSP v. OOR*, 995 A.2d. 515, 517 (Pa. Commw. 2010) (“The portion of the request seeking any and all records, files or communications [concerning subject matter] is insufficiently specific for the PSP to respond to the request.”). Such broad requests have been, and will be, denied.

The scope of your request is broad and undefined. The request does not provide parameters to enable the City to identify what records are being requested and/or to begin searching for such records and as such it is insufficiently specific under the RTKL. “[I]t is the requestor’s responsibility to tell an agency what records he or she wants.” *Mollick v. Twp. of Worcester*, 32 A.3d 859, 871 (Pa Commw. Ct, 2011) (holding that requests seeking emails between certain agency officials and employees for the past one and five years without sufficiently identifying the subject matter were insufficiently specific, and concluding that “it would place an unreasonable burden on an agency to examine all its emails for an extended time period without knowing, with sufficient specificity, what Township business or activity the request is related [to].”). Recently the Commonwealth Court held that requests that sought emails between certain agency officials and employees for the past one and five years without sufficiently identifying the subject matter were insufficiently specific. The Commonwealth Court concluded that “it would place an unreasonable burden on an agency to examine all its emails for an extended time period without knowing, with sufficient specificity, what Township business or activity the request is related.” *Id.*.

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<sup>1</sup> This language is identical to sufficient specificity requirement in § 2(c) of the prior Right-to-Know Law, 65 P.S. 66.1, *et seq.* Accordingly, the case law interpreting this language in the context of the old Right-to-Know Law remains binding. *Dep’t of Conservation & Natural Res. v. Office of Open Records*, 1 A.3d 929, 940-41 (Pa. Commw. 2010) (interpreting language in the new Act by relying on prior precedent holding that “[t]he language in the two definitions is virtually identical. Faced with a prior judicial interpretation . . . by . . . the Pennsylvania Supreme Court of the account/voucher/contract language in the RTKL, even though issued in the context of the Old Law, we are not at liberty here to ascribe a different meaning to the same language.”).

Moreover, both the Commonwealth Court and the Office of Open Records have held that a request is insufficiently specific when it is “subject to multiple interpretations as to what records [are] sought. . . .” *Pa. Hous. Fin. Agency v. Ali*, 43 A.3d 532, 535 (Pa. Commw. Ct. 2012); *accord Rhoads v. W.Berks Water Auth.*, AP 2010-1184 (Pa. OOR Jan. 13, 2011) (holding that when a request is “susceptible to two different meanings . . . the necessary clarity for providing responsive records is absent.”); 65 P.S. § 67.703. The express language of your request is subject to multiple interpretations as to what records are sought. Particularly, your request for “databases, particular documents, and documentation mechanism.”

Should you wish to contest any part of this decision, may file an appeal with the Office of Open Records as provided for in 65 P.S. § 67.1101. You have 15 business days from the mailing date of this response to challenge the City’s response. Please direct any appeal to the Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234 and copy the undersigned open records officer.

Please be advised that this response will close your request with our office as permitted by law.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Roberto A. Fernandez', is positioned above the printed name.

Roberto A. Fernandez, Esq.  
Assistant City Solicitor